

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB183)

Received: **5/13/2013** Received By: **pkahler**
Wanted: **Today** Same as LRB:
For: **Eric Genrich (608) 266-0616** By/Representing: **Steve Peters**
May Contact: Drafter: **pkahler**
Subject: **Real Estate - landlord/tenant** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email: **Rep.Genrich@legis.wisconsin.gov**
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Miscellaneous landlord tenant provisions

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1				_____	sbasford 5/13/2013	sbasford 5/13/2013	

FE Sent For:

<END>

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pkahler

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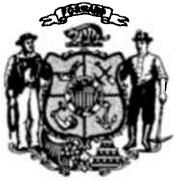
FE Sent For:

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Steve - Rep Genick's Office
by phone 5-13

draft a sub amdt to AB183
that retains 3 provisions
from the bill:

- 1) initialing or signing nonstandard
rental provisions
- 2) check-in sheet changes
- 3) limiting security deposit
provisions to residential
tenants



State of Wisconsin
2013 - 2014 LEGISLATURE



LRBs0056/

PJK:

rm not run jld

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY SUBSTITUTE AMENDMENT,

TO ASSEMBLY BILL 183

to day, please

gar cat

1

AN ACT relating to: miscellaneous provisions related to rental practices.

Wisconsin
Analysis by the Legislative Reference Bureau

- * § 3. Under current law, if a rental agreement contains any provisions that allow a landlord to withhold amounts from a tenant's security deposit in addition to those amounts specified in the statutes, they must be provided to the tenant in a separate written document and are called nonstandard rental provisions. If the tenant signs a nonstandard rental provision, it is rebuttably presumed that the tenant has agreed to it. The substitute amendment provides that the tenant may sign his or her name or write his or her initials by such a provision.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2

SECTION 1. Initial applicability.

3

(1) APPLICABILITY OF SECURITY DEPOSIT PROVISIONS. The treatment of section

4

704.28 (5) of the statutes first applies to tenancies that are in effect on the effective

5

date of this subsection.

Insert A-1

Insert 1-2

2 (1) This act takes effect on the first day of the first month beginning after
3 publication.

4 (END)

ASSEMBLY BILL 183

Insert A-1

102

or qualifications, the employer is exempt from civil liability for providing the reference. The bill provides a landlord with an exemption from civil liability for providing a reference about the rental performance of an applicant for tenancy if the applicant or a prospective landlord of the applicant requests the landlord to provide the reference. As under current law for employers, there is a presumption that the landlord is acting in good faith. The presumption may be overcome only by clear and convincing evidence that the landlord knowingly provided false information in the reference or made the reference maliciously.

3. Current law provides that, if a tenant damages the premises through negligence or improper use of the premises, the tenant must repair the damage. However, the landlord may elect to do the repair, in which case the tenant must reimburse the landlord. The bill specifically provides that an infestation of insects or other pests may constitute damage to the premises and that, if the premises are damaged by the acts or inaction of the tenant, the landlord may elect to allow the tenant to remediate or repair the damage or may elect to remediate or repair the damage himself or herself, in which case the tenant must reimburse the landlord.

4. Under current law, a landlord must disclose to a prospective tenant any building or housing code violation to which certain specified criteria apply, including that the landlord has actual knowledge of the violation. The bill changes that criterion from the landlord having actual knowledge to the landlord having received written notice of the violation from a local housing code enforcement agency.

5. Under current law, a city, village, town, or county (municipality) is prohibited from enacting or enforcing certain ordinances relating to landlords and tenants, such as an ordinance imposing a moratorium on eviction actions or an ordinance that places certain limitations on what information a landlord may obtain and use concerning a prospective tenant. The bill additionally prohibits a municipality from enacting or enforcing an ordinance that limits a tenant's responsibility, or a landlord's right to recover, for any damage to, or neglect of, the premises; that requires a landlord to communicate to tenants any information that is not required to be communicated to tenants under federal or state law; or that requires a landlord to communicate to the municipality any information concerning the landlord unless the information is required under federal or state law or is required of all residential real property owners.

6. ~~Current law specifies what costs may be withheld from a security deposit and the timing for the return of a security deposit after a tenant removes from the premises. The bill limits these provisions to residential tenancies. In addition, the bill provides that if a tenant is evicted from the premises, his or her security deposit must be returned within 21 days after either the date on which the tenant's rental agreement terminates or the date on which a new tenant's tenancy begins if the landlord rerents the premises before the tenant's rental agreement terminates. Under current law, an evicted tenant's security deposit must be returned within 21 days after the earlier of the date on which a writ of restitution is executed or the date on which the landlord learns that the tenant has vacated the premises.~~

7. Current law provides that a residential rental agreement is void and unenforceable if it contains a provision that does any of a number of certain specified

This substitute amendment ✓

ASSEMBLY BILL 183

Insert A-1 cont'd

20/2

things, including allowing the landlord to terminate the tenancy of a tenant if a crime is committed in or on the rental property, even if the tenant could not have prevented the crime. The bill removes that item from the list of provisions that, if contained in a residential rental agreement, make it void and unenforceable.

8. Current law provides that any violation of the chapter of the statutes that contains the landlord-tenant provisions may constitute unfair methods of competition or unfair trade practices under the provisions of the statutes under which the Department of Agriculture, Trade and Consumer Protection regulates marketing and trade practices. The bill limits the landlord-tenant provisions that, if violated, may constitute unfair methods of competition or unfair trade practices to the provisions relating to withholding from and returning security deposits and the provisions that, if contained in a residential rental agreement, make it void and unenforceable.

9. Current law provides that a person who is entitled to possession of real property may commence an eviction action. The bill adds that an agent of such a person, authorized in writing, may also commence the eviction action. Under current law, a person who commences an eviction action may appear in his, her, or its own proper person or by an attorney. A person is considered to be appearing in its own proper person if it appears by a full-time authorized employee. The bill adds that a person may appear in its own proper person by a member, or an agent of a member or authorized employee, of the person. Current law provides that an eviction action based on failure to pay rent may not be dismissed solely because the landlord accepts past due rent from the tenant after the termination of the tenant's tenancy. The bill provides that an eviction action based on failure to pay rent or for any other reason may not be dismissed because the landlord accepts past due rent or any other payment from the tenant after serving notice of default or commencing the eviction action.

Under current law, a landlord must provide to a tenant when the tenant commences his or her occupancy of the premises a standardized information check-in sheet that contains an itemized description of the condition of the premises. The bill changes this requirement so that the landlord must provide to the tenant a check-in sheet that the tenant may use to make comments about the condition of the premises.

Towing vehicles illegally parked on private property

Current law prohibits the removal (towing) of a vehicle involved in trespass parking on a private parking lot or facility without the permission of the vehicle owner, unless a parking citation is issued by a traffic officer or a repossession judgment is issued.

Under this bill, if a vehicle is parked without authorization on private property, the vehicle may be towed immediately, at the vehicle owner's expense and without the owner's permission, as follows: 1) from private property that is properly posted, whether or not a parking citation is issued; or 2) from private property that is not properly posted, only if a parking citation is issued or a repossession judgment is issued. "Properly posted" means there is clearly visible notice that an area is private property and that vehicles that are not authorized to park in this area may be

substitute amendment

(end of A-1)

ASSEMBLY BILL 183

SECTION 12

Insert 1-2 182

1 redecorating. However, the landlord may elect to undertake the remediation, repair,
2 or redecoration, and in such case the ~~tenant~~ must reimburse the landlord for the
3 reasonable cost thereof; the cost to the landlord is presumed reasonable unless
4 proved otherwise by the tenant.

5 **SECTION 13.** 704.08[✓] of the statutes is amended to read:

6 **704.08 ~~Information check-in~~ Check-in sheet.** A landlord shall provide to
7 a new residential tenant when the tenant commences his or her occupancy of the
8 premises a ~~standardized information check-in~~ sheet that [✓] ~~contains an itemized~~
9 ~~description of the tenant may use to make comments, if any, about~~ the condition of
10 the premises ~~at the time of check-in.~~[✓] The tenant shall be given 7 days from the date
11 the tenant commences his or her occupancy to complete the check-in sheet and
12 return it to the landlord. The landlord is not required to provide the ~~information~~
13 check-in sheet to a tenant upon renewal of a rental agreement. This section does not
14 apply to the rental of a plot of ground on which a manufactured home, as defined in
15 s. 704.05 (5) (b) 1. a., or a mobile home, as defined in s. 704.05 (5) (b) 1. b., may be
16 located.

17 **SECTION 14.** 704.28[✓] (2) of the statutes is amended to read:

18 **704.28 (2) NONSTANDARD RENTAL PROVISIONS.** Except as provided in sub. (3), a
19 rental agreement may include one or more nonstandard rental provisions that
20 authorize the landlord to withhold amounts from the tenant's security deposit for
21 reasons not specified in sub. (1) (a) to (e). Any such nonstandard rental provisions
22 shall be provided to the tenant in a separate written document entitled
23 "NONSTANDARD RENTAL PROVISIONS." The landlord shall specifically identify
24 ~~and discuss~~ each nonstandard rental provision with the tenant before the tenant
25 enters into a rental agreement with the landlord. If the tenant signs [✓] his or her name,

↓

ASSEMBLY BILL 183

Insert 1-2 cont'd 2012

1 or writes his or her initials, by a nonstandard rental provision, it is rebuttably
2 presumed that the landlord has specifically identified ~~and discussed~~ the
3 nonstandard rental provision with the tenant and that the tenant has agreed to it.

4 **SECTION 15.** 704.28 (4) (b) of the statutes is amended to read:

5 704.28 (4) (b) If the tenant vacates the premises before the termination date
6 of the rental agreement or if the tenant is evicted, the date on which the tenant's
7 rental agreement terminates or, if the landlord rerents the premises before the
8 tenant's rental agreement terminates, the date on which the new tenant's tenancy
9 begins.

10 **SECTION 16.** 704.28 (4) (d) of the statutes is repealed.

11 **SECTION 17.** 704.28 (5) of the statutes is created to read:

12 704.28 (5) APPLICATION TO RESIDENTIAL TENANCIES. This section applies to
13 residential tenancies only.

14 **SECTION 18.** 704.44 (9) of the statutes is repealed.

15 **SECTION 19.** 704.95 of the statutes is amended to read:

16 **704.95 Practices regulated by the department of agriculture, trade**
17 **and consumer protection.** Practices in violation of this chapter s. 704.28 or 704.44
18 may also constitute unfair methods of competition or unfair trade practices under s.
19 100.20. However, the department of agriculture, trade and consumer protection may
20 not issue an order or promulgate a rule under s. 100.20 that changes any right or duty
21 arising under this chapter.

22 **SECTION 20.** 799.05 (3) (b) of the statutes is amended to read:

23 799.05 (3) (b) Except in eviction actions, the return date for a summons served
24 upon a resident of this state shall be not less than 8 days nor more than 30 days from
25 the issue date, and service shall be made not less than 8 days prior to the return date.

(end of ins 1-2)